

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Charleston Division**

DEREK CLEMENTS, <i>et al.</i> ,)	
)	
Plaintiffs)	
)	
v.)	Civil Action No. 2:22-cv-02069-RMG
)	
LLOYD J. AUSTIN, III, <i>et al.</i> ,)	
)	
Defendants.)	
)	

DECLARATION OF LIEUTENANT COLONEL JUDSON BABCOCK

I, Judson Babcock am a Lieutenant Colonel in the United States Air Force. I am currently stationed at the United States Air Force Academy ("USAFA").

On July 21, 2022, I went to the immunization clinic at the USAFA medical clinic and asked to see a vial of the vaccine that would be used for an individual receiving their first COVID-19 vaccination shot. I was shown vials in the pictures which are attached to this declaration. Enclosure 1.

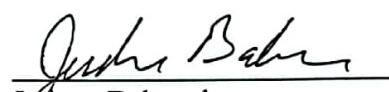
I also asked to be provided with the package insert. After they suppressed their surprise, they gave me a document, attached to this declaration, and informed that this is the package insert for the vaccines in their possession. Enclosure 2.

While one of the clinic technicians was retrieving the vial, I asked the other technician on duty if it was going to be a vial of Comirnaty. He responded "No, we've never had Comirnaty here". I asked him if he was sure, and he affirmed his response. He then left the room.

Both technicians returned, one of them with the vial. As I was taking pictures, I asked them about Comirnaty again. The technicians' responses were very different from what the first

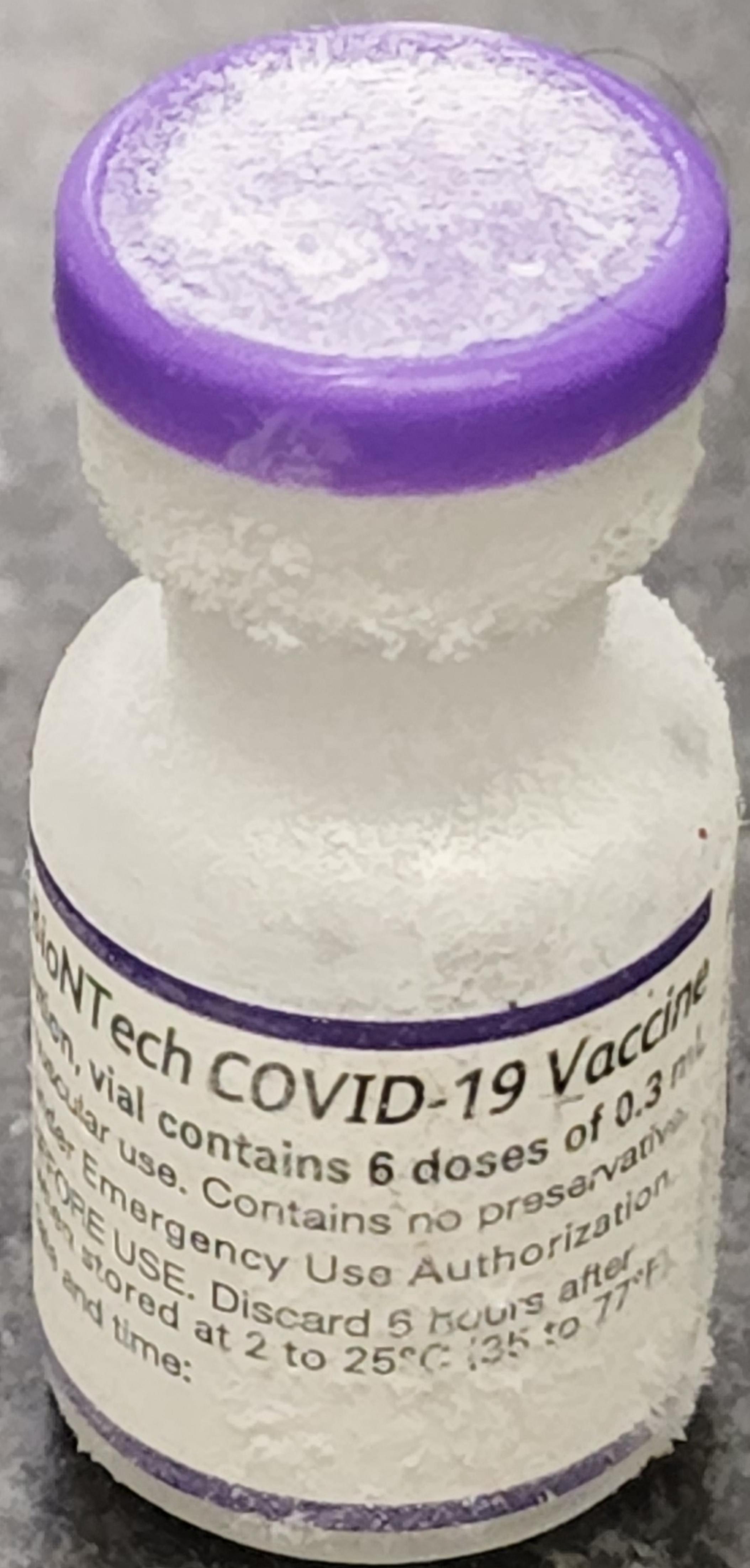
tech told me. They stated they have a box of Comirnaty but aren't allowed to distribute it until they use up the Pfizer. They refused to show me a Comirnaty vial or any proof that they had one, stating that if "they even touched it" they would have to thaw it out and use it, which they aren't allowed to do.

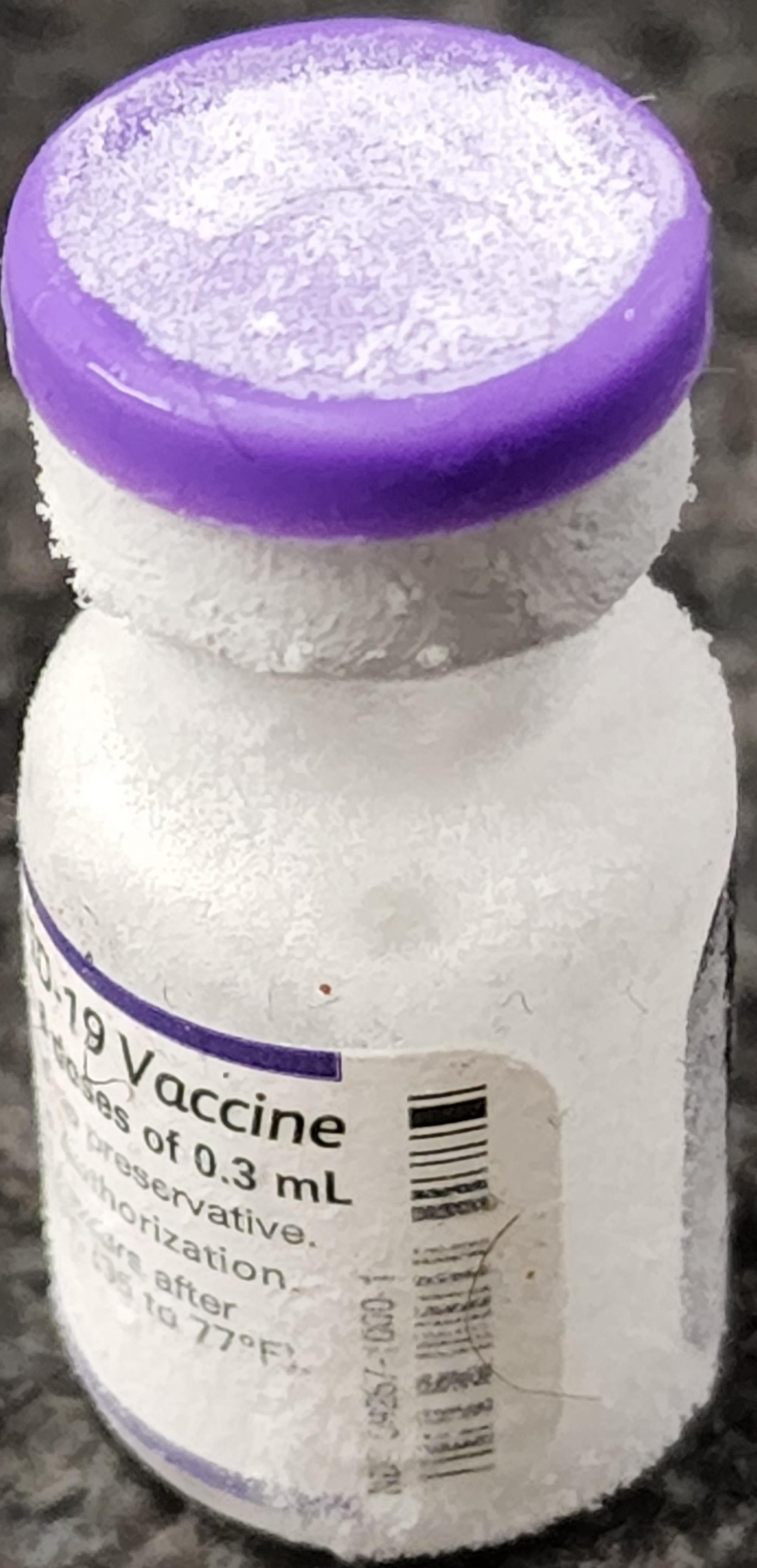
I declare under penalty of perjury that the foregoing is true and correct. Executed on July 25, 2022.

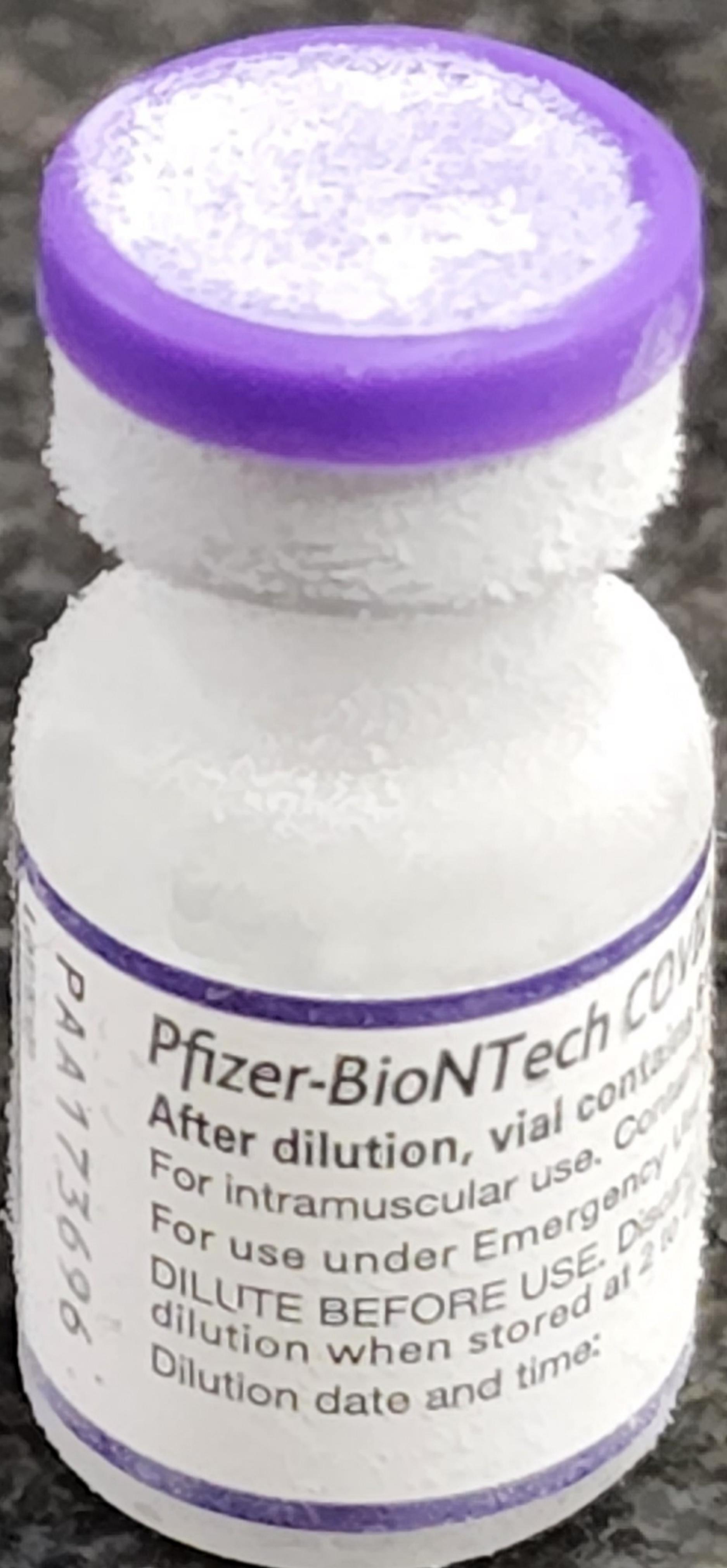

Judson Babcock

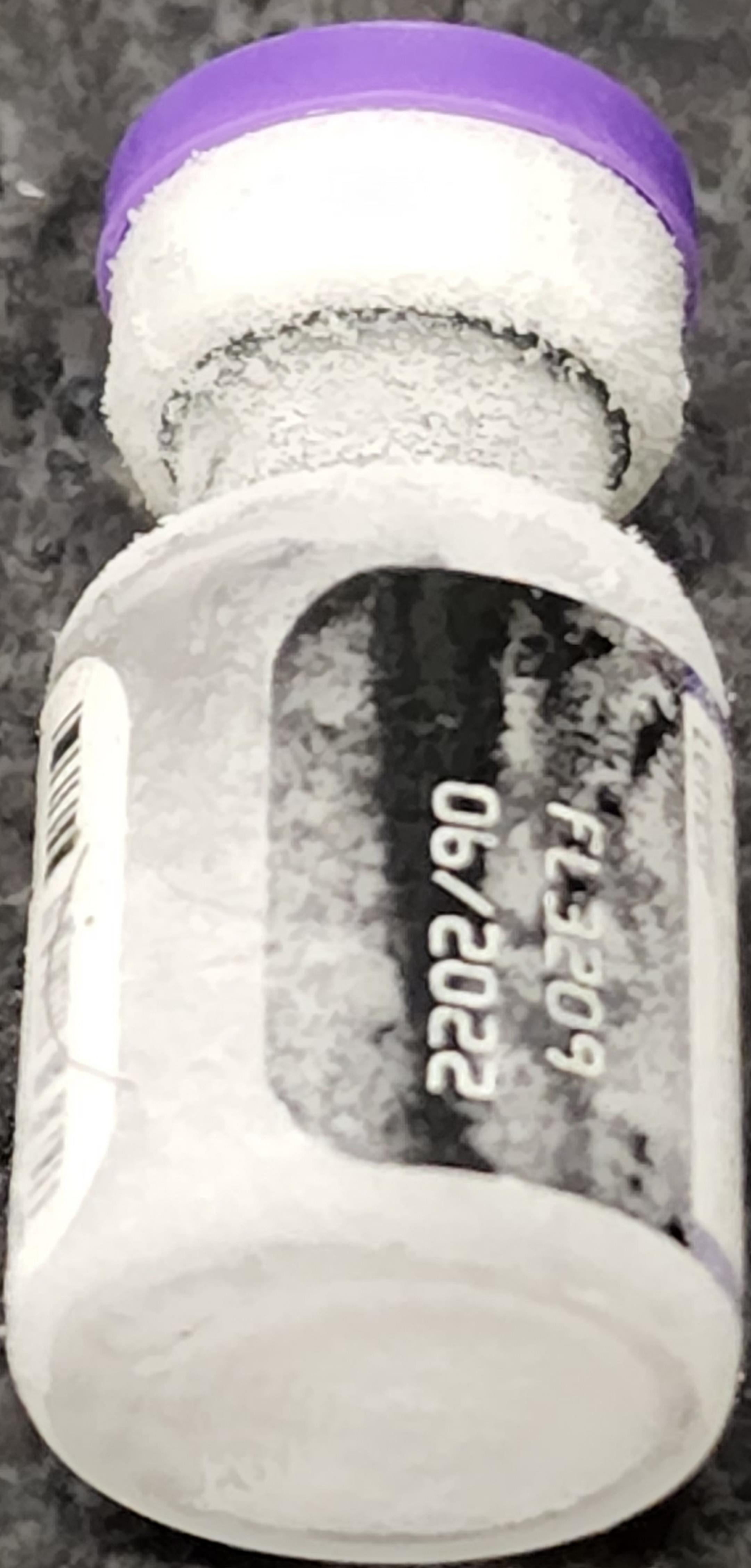
Enclosure 1











Enclosure 2

**VACCINE INFORMATION FACT SHEET FOR RECIPIENTS AND CAREGIVERS
ABOUT COMIRNATY (COVID-19 VACCINE, mRNA)
AND THE PFIZER-BIONTECH COVID-19 VACCINE TO PREVENT CORONAVIRUS
DISEASE 2019 (COVID-19) FOR USE IN INDIVIDUALS 12 YEARS OF AGE AND
OLDER**

FOR 12 YEARS OF AGE AND OLDER

You are being offered either COMIRNATY (COVID-19 Vaccine, mRNA) or the Pfizer-BioNTech COVID-19 Vaccine to prevent Coronavirus Disease 2019 (COVID-19) caused by SARS-CoV-2.

This Vaccine Information Fact Sheet for Recipients and Caregivers comprises the Fact Sheet for the authorized Pfizer-BioNTech COVID-19 Vaccine and also includes information about the FDA-licensed vaccine, COMIRNATY (COVID-19 Vaccine, mRNA) for use in individuals 12 years of age and older¹.

The FDA-approved COMIRNATY (COVID-19 Vaccine, mRNA) and the Pfizer-BioNTech COVID-19 Vaccine authorized for Emergency Use Authorization (EUA) for individuals 12 years of age and older, when prepared according to their respective instructions for use, can be used interchangeably.²

COMIRNATY (COVID-19 Vaccine, mRNA) is an FDA-approved COVID-19 vaccine made by Pfizer for BioNTech. It is approved as a 2-dose series for prevention of COVID-19 in individuals 16 years of age and older. It is also authorized under EUA to provide:

- a 2-dose primary series to individuals 12 through 15 years of age;
- a third primary series dose to individuals 12 years of age and older with certain kinds of immunocompromise;
- a first booster dose to individuals 12 years of age and older who have completed a primary series with Pfizer-BioNTech COVID-19 Vaccine or COMIRNATY (COVID-19 Vaccine, mRNA);
- a first booster dose to individuals 18 years of age and older who have completed primary vaccination with another authorized or approved

¹ You may receive this Vaccine Information Fact Sheet even if your child is 11 years old. Children who will turn from 11 years to 12 years of age between doses in the primary regimen may receive, for any dose in the primary regimen, either: (1) the Pfizer-BioNTech COVID-19 Vaccine authorized for use in individuals 5 through 11 years of age; or (2) COMIRNATY (COVID-19 Vaccine, mRNA) or the Pfizer-BioNTech COVID-19 Vaccine authorized for use in individuals 12 years of age and older.

² When prepared according to their respective instructions for use, the FDA-approved COMIRNATY (COVID-19 Vaccine, mRNA) and the EUA-authorized Pfizer-BioNTech COVID-19 Vaccine for individuals 12 years of age and older can be used interchangeably without presenting any safety or effectiveness concerns.

COVID-19 vaccine. The booster schedule is based on the labeling information of the vaccine used for the primary series;

- **a second booster dose to individuals 50 years of age and older who have received a first booster dose of any authorized or approved COVID-19 vaccine; and**
- **a second booster dose to individuals 12 years of age and older with certain kinds of immunocompromise and who have received a first booster dose of any authorized or approved COVID-19 vaccine.**

The Pfizer-BioNTech COVID-19 Vaccine has received EUA from FDA to provide:

- **a 2-dose primary series to individuals 12 years of age and older;**
- **a third primary series dose to individuals 12 years of age and older with certain kinds of immunocompromise;**
- **a first booster dose to individuals 12 years of age and older who have completed a primary series with Pfizer-BioNTech COVID-19 Vaccine or COMIRNATY (COVID-19 Vaccine, mRNA);**
- **a first booster dose to individuals 18 years of age and older who have completed primary vaccination with another authorized or approved COVID-19 vaccine. The booster schedule is based on the labeling information of the vaccine used for the primary series;**
- **a second booster dose to individuals 50 years of age and older who have received a first booster dose of any authorized or approved COVID-19 vaccine; and**
- **a second booster dose to individuals 12 years of age and older with certain kinds of immunocompromise and who have received a first booster dose of any authorized or approved COVID-19 vaccine.**

This Vaccine Information Fact Sheet contains information to help you understand the risks and benefits of COMIRNATY (COVID-19 Vaccine, mRNA) and the Pfizer-BioNTech COVID-19 Vaccine, which you may receive because there is currently a pandemic of COVID-19. Talk to your vaccination provider if you have questions.

This Fact Sheet may have been updated. For the most recent Fact Sheet, please see www.cvdvaccine.com.

WHAT YOU NEED TO KNOW BEFORE YOU GET THIS VACCINE

WHAT IS COVID-19?

COVID-19 disease is caused by a coronavirus called SARS-CoV-2. You can get COVID-19 through contact with another person who has the virus. It is predominantly a respiratory illness that can affect other organs. People with COVID-19 have had a wide range of symptoms reported, ranging from mild symptoms to severe illness leading to death. Symptoms may appear 2 to 14 days after exposure to the virus. Symptoms may include: fever or chills; cough; shortness of breath; fatigue; muscle or body aches;

headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; diarrhea.

WHAT IS COMIRNATY (COVID-19 VACCINE, mRNA) AND HOW IS IT RELATED TO THE PFIZER-BIONTECH COVID-19 VACCINE?

COMIRNATY (COVID-19 Vaccine, mRNA) and the Pfizer-BioNTech COVID-19 Vaccine, when prepared according to their respective instructions for use, can be used interchangeably.

For more information on EUA, see the “**What is an Emergency Use Authorization (EUA)?**” section at the end of this Fact Sheet.

WHAT SHOULD YOU MENTION TO YOUR VACCINATION PROVIDER BEFORE YOU GET THE VACCINE?

Tell the vaccination provider about all of your medical conditions, including if you:

- have any allergies
- have had myocarditis (inflammation of the heart muscle) or pericarditis (inflammation of the lining outside the heart)
- have a fever
- have a bleeding disorder or are on a blood thinner
- are immunocompromised or are on a medicine that affects your immune system
- are pregnant or plan to become pregnant
- are breastfeeding
- have received another COVID-19 vaccine
- have ever fainted in association with an injection

HOW IS THE VACCINE GIVEN?

The Pfizer-BioNTech COVID-19 Vaccine or COMIRNATY (COVID-19 Vaccine, mRNA) will be given to you as an injection into the muscle.

Primary Series: The vaccine is administered as a 2-dose series, 3 weeks apart. A third primary series dose may be administered at least 4 weeks after the second dose to individuals with certain kinds of immunocompromise.

Booster Dose:

- A first booster dose of the vaccine may be administered at least 5 months after completion of a primary series of the Pfizer-BioNTech COVID-19 Vaccine or COMIRNATY (COVID-19 Vaccine, mRNA) to individuals 12 years of age and older.

- A first booster dose of the vaccine may be administered to individuals 18 years of age and older who have completed primary vaccination with another authorized or approved COVID-19 vaccine. Please check with your healthcare provider regarding timing of the booster dose.
- A second booster dose of the vaccine may be administered to individuals 50 years of age and older at least 4 months after receipt of a first booster dose of any authorized or approved COVID-19 vaccine.
- A second booster dose of the vaccine may be administered at least 4 months after receipt of a first booster dose of any authorized or approved COVID-19 vaccine to individuals 12 years of age and older with certain kinds of immunocompromise.

The vaccine may not protect everyone.

WHO SHOULD NOT GET THE VACCINE?

You should not get the vaccine if you:

- had a severe allergic reaction after a previous dose of this vaccine
- had a severe allergic reaction to any ingredient of this vaccine.

WHAT ARE THE INGREDIENTS IN THE VACCINES?

COMIRNATY (COVID-19 Vaccine, mRNA) and the authorized formulations of the vaccine include the following ingredients:

- mRNA and lipids ((4-hydroxybutyl)azanediyl)bis(hexane-6,1-diyl)bis(2-hexyldecanoate), 2 [(polyethylene glycol)-2000]-N,N-ditetradecylacetamide, 1,2-Distearoyl-sn-glycero-3-phosphocholine, and cholesterol).

Pfizer-BioNTech COVID-19 vaccines for individuals 12 years of age and older contain 1 of the following sets of additional ingredients; ask the vaccination provider which version is being administered:

- potassium chloride, monobasic potassium phosphate, sodium chloride, dibasic sodium phosphate dihydrate, and sucrose

OR

- tromethamine, tromethamine hydrochloride, and sucrose

COMIRNATY (COVID-19 Vaccine, mRNA) contains 1 of the following sets of additional ingredients; ask the vaccination provider which version is being administered:

- potassium chloride, monobasic potassium phosphate, sodium chloride, dibasic sodium phosphate dihydrate, and sucrose

OR

- tromethamine, tromethamine hydrochloride, and sucrose

HAS THE VACCINE BEEN USED BEFORE?

Yes. In clinical trials, approximately 23,000 individuals 12 years of age and older have received at least 1 dose of the vaccine. Data from these clinical trials supported the Emergency Use Authorization of the Pfizer-BioNTech COVID-19 Vaccines and the approval of COMIRNATY (COVID-19 Vaccine, mRNA). Millions of individuals have received the vaccine under EUA since December 11, 2020. The vaccine that is

authorized for use in individuals 12 years of age and older includes two formulations; one that was studied in clinical trials and used under EUA, and one with the same mRNA and lipids but different inactive ingredients. The use of the different inactive ingredients helps stabilize the vaccine under refrigerated temperatures and the formulation can be administered without dilution.

WHAT ARE THE BENEFITS OF THE VACCINE?

The vaccine has been shown to prevent COVID-19.

The duration of protection against COVID-19 is currently unknown.

WHAT ARE THE RISKS OF THE VACCINE?

There is a remote chance that the vaccine could cause a severe allergic reaction. A severe allergic reaction would usually occur within a few minutes to 1 hour after getting a dose of the vaccine. For this reason, your vaccination provider may ask you to stay at the place where you received your vaccine for monitoring after vaccination. Signs of a severe allergic reaction can include:

- Difficulty breathing
- Swelling of your face and throat
- A fast heartbeat
- A bad rash all over your body
- Dizziness and weakness

Myocarditis (inflammation of the heart muscle) and pericarditis (inflammation of the lining outside the heart) have occurred in some people who have received the vaccine, more commonly in males under 40 years of age than among females and older males. In most of these people, symptoms began within a few days following receipt of the second dose of vaccine. The chance of having this occur is very low. You should seek medical attention right away if you have any of the following symptoms after receiving the vaccine:

- Chest pain
- Shortness of breath
- Feelings of having a fast-beating, fluttering, or pounding heart

Side effects that have been reported with the vaccine include:

- severe allergic reactions
- non-severe allergic reactions such as rash, itching, hives, or swelling of the face
- myocarditis (inflammation of the heart muscle)
- pericarditis (inflammation of the lining outside the heart)
- injection site pain
- tiredness
- headache
- muscle pain

- chills
- joint pain
- fever
- injection site swelling
- injection site redness
- nausea
- feeling unwell
- swollen lymph nodes (lymphadenopathy)
- decreased appetite
- diarrhea
- vomiting
- arm pain
- fainting in association with injection of the vaccine

These may not be all the possible side effects of the vaccine. Serious and unexpected side effects may occur. The possible side effects of the vaccine are still being studied in clinical trials.

WHAT SHOULD I DO ABOUT SIDE EFFECTS?

If you experience a severe allergic reaction, call 9-1-1, or go to the nearest hospital.

Call the vaccination provider or your healthcare provider if you have any side effects that bother you or do not go away.

Report vaccine side effects to FDA/CDC Vaccine Adverse Event Reporting System (VAERS). The VAERS toll-free number is 1-800-822-7967 or report online to <https://vaers.hhs.gov/reportevent.html>. Please include either "COMIRNATY (COVID-19 Vaccine, mRNA)" or "Pfizer-BioNTech COVID-19 Vaccine EUA", as appropriate, in the first line of box #18 of the report form.

In addition, you can report side effects to Pfizer Inc. at the contact information provided below.

Website	Fax number	Telephone number
www.pfizersafetyreporting.com	1-866-635-8337	1-800-438-1985

You may also be given an option to enroll in v-safe. V-safe is a new voluntary smartphone-based tool that uses text messaging and web surveys to check in with people who have been vaccinated to identify potential side effects after COVID-19 vaccination. V-safe asks questions that help CDC monitor the safety of COVID-19 vaccines. V-safe also provides second-dose reminders if needed and live telephone follow-up by CDC if participants report a significant health impact following COVID-19 vaccination. For more information on how to sign up, visit: www.cdc.gov/vsafe.

WHAT IF I DECIDE NOT TO GET COMIRNATY (COVID-19 VACCINE, mRNA) OR THE PFIZER-BIONTECH COVID-19 VACCINE?

Under the EUA, it is your choice to receive or not receive the vaccine. Should you decide not to receive it, it will not change your standard medical care.

ARE OTHER CHOICES AVAILABLE FOR PREVENTING COVID-19 BESIDES COMIRNATY (COVID-19 VACCINE, mRNA) OR THE PFIZER-BIONTECH COVID-19 VACCINE?

Another choice for preventing COVID-19 is SPIKEVAX, an FDA-approved COVID-19 vaccine. Other vaccines to prevent COVID-19 may be available under Emergency Use Authorization.

CAN I RECEIVE THE COMIRNATY (COVID-19 VACCINE, mRNA) OR PFIZER-BIONTECH COVID-19 VACCINE AT THE SAME TIME AS OTHER VACCINES?

Data have not yet been submitted to FDA on administration of COMIRNATY (COVID-19 Vaccine, mRNA) or the Pfizer-BioNTech COVID-19 Vaccine at the same time with other vaccines. If you are considering receiving COMIRNATY (COVID-19 Vaccine, mRNA) or the Pfizer-BioNTech COVID-19 Vaccine with other vaccines, discuss your options with your healthcare provider.

WHAT IF I AM IMMUNOCOMPROMISED?

If you are immunocompromised, you may receive a third primary series dose of the vaccine. The third dose may still not provide full immunity to COVID-19 in people who are immunocompromised, and you should continue to maintain physical precautions to help prevent COVID-19. In addition, after you received a first booster dose, you may receive a second booster dose of the vaccine if you are 12 years of age or older. Your close contacts should be vaccinated as appropriate.

WHAT IF I AM PREGNANT OR BREASTFEEDING?

If you are pregnant or breastfeeding, discuss your options with your healthcare provider.

WILL THE VACCINE GIVE ME COVID-19?

No. The vaccine does not contain SARS-CoV-2 and cannot give you COVID-19.

KEEP YOUR VACCINATION CARD

When you get your first dose, you will get a vaccination card to show you when to return for your next dose(s) of the vaccine. Remember to bring your card when you return.

ADDITIONAL INFORMATION

If you have questions, visit the website or call the telephone number provided below.

To access the most recent Fact Sheets, please scan the QR code provided below.

Global website	Telephone number
<u>www.cvdvaccine.com</u> 	1-877-829-2619 (1-877-VAX-CO19)

HOW CAN I LEARN MORE?

- Ask the vaccination provider.
- Visit CDC at <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.
- Visit FDA at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.
- Contact your local or state public health department.

WHERE WILL MY VACCINATION INFORMATION BE RECORDED?

The vaccination provider may include your vaccination information in your state/local jurisdiction's Immunization Information System (IIS) or other designated system. This will ensure that you receive the same vaccine when you return for the second dose. For more information about IISs visit: <https://www.cdc.gov/vaccines/programs/iis/about.html>.

CAN I BE CHARGED AN ADMINISTRATION FEE FOR RECEIPT OF THE COVID-19 VACCINE?

No. At this time, the provider cannot charge you for a vaccine dose and you cannot be charged an out-of-pocket vaccine administration fee or any other fee if only receiving a COVID-19 vaccination. However, vaccination providers may seek appropriate reimbursement from a program or plan that covers COVID-19 vaccine administration fees for the vaccine recipient (private insurance, Medicare, Medicaid, Health Resources & Services Administration [HRSA] COVID-19 Uninsured Program for non-insured recipients).

WHERE CAN I REPORT CASES OF SUSPECTED FRAUD?

Individuals becoming aware of any potential violations of the CDC COVID-19 Vaccination Program requirements are encouraged to report them to the Office of the Inspector General, U.S. Department of Health and Human Services, at 1-800-HHS-TIPS or <https://TIPS.HHS.GOV>.

WHAT IS THE COUNTERMEASURES INJURY COMPENSATION PROGRAM?

The Countermeasures Injury Compensation Program (CICP) is a federal program that may help pay for costs of medical care and other specific expenses of certain people who have been seriously injured by certain medicines or vaccines, including this

vaccine. Generally, a claim must be submitted to the CICP within one (1) year from the date of receiving the vaccine. To learn more about this program, visit www.hrsa.gov/cicp/ or call 1-855-266-2427.

WHAT IS AN EMERGENCY USE AUTHORIZATION (EUA)?

An Emergency Use Authorization (EUA) is a mechanism to facilitate the availability and use of medical products, including vaccines, during public health emergencies, such as the current COVID-19 pandemic. An EUA is supported by a Secretary of Health and Human Services (HHS) declaration that circumstances exist to justify the emergency use of drugs and biological products during the COVID-19 pandemic.

The FDA may issue an EUA when certain criteria are met, which includes that there are no adequate, approved, available alternatives. In addition, the FDA decision is based on the totality of scientific evidence available showing that the product may be effective to prevent COVID-19 during the COVID-19 pandemic and that the known and potential benefits of the product outweigh the known and potential risks of the product. All of these criteria must be met to allow for the product to be used in the treatment of patients during the COVID-19 pandemic.

This EUA for the Pfizer-BioNTech COVID-19 Vaccine and COMIRNATY (COVID-19 Vaccine, mRNA) will end when the Secretary of HHS determines that the circumstances justifying the EUA no longer exist or when there is a change in the approval status of the product such that an EUA is no longer needed.



Manufactured by
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BIONTECH
Manufactured for
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55131 Mainz, Germany

LAB-1451-18.1c

Revised: 17 May 2022



Scan to capture that this Fact Sheet was provided to vaccine recipient for the electronic medical records/immunization information systems.

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